

AMENDMENT
to the
PRIVATE COMMERCIAL AGREEMENT FOR LOCAL WHOLESALE COMPLETE

This Amendment to the Private Commercial Agreement ("Amendment") is entered into by and between SAGE TELECOM, INC. and SAGE Telecom of Texas, L.P. (hereinafter collectively referred to as "SAGE"), and **SBC-13STATE** (as defined herein) (collectively, the "Parties").

WHEREAS, SBC-13STATE and SAGE are the parties to that certain "Private Commercial Agreement for Local Wholesale Complete" dated as of April 21, 2004 (the "LWC Agreement"); and

WHEREAS, SBC-13STATE and SAGE have agreed to amend the LWC Agreement as set forth herein.

WHEREAS, both Parties are willing to agree to this Amendment only on the basis that the entirety of this Amendment being an indivisible whole.

NOW, THEREFORE, for and in consideration of the premises, mutual promises and covenants contained in this Amendment, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Changes to the LWC Agreement

1.1 Section 1.4.3 is hereby added to the LWC Agreement:

1.4.3 In the event that SAGE fails to meet the Monthly Minimum after the end of any billing period hereunder, such a failure shall be deemed a material breach of this Agreement. The Parties acknowledge that such a material breach is not subject to being disputed materially and in good faith by SAGE.

1.2 Section 5.3.5 of the LWC Agreement is hereby deleted and replaced with the following:

5.3.5 that neither SAGE nor **SBC-13STATE** will be entitled to substitutions and/or modifications to the packaged contractual and network offerings based upon agreements either Party may enter into with third parties (e.g., no "picking and choosing" of selective terms and conditions).

1.3 Section 11.8 of the LWC Agreement is hereby deleted and replaced with the following:

11.8 In the event that the Parties have not reached mutually agreeable terms and conditions for the Joint Development Project (including without limitation any particular project sought by SAGE), the Parties agree that any non-billing/non-payment dispute arising under or related to this Section 11 shall only be subject to Section 26.4, Informal Resolution of Non-Billing Disputes. By way of example and not of limitation, Section 26.5, Formal Dispute Resolution, shall not apply to any non-billing/non-payment disputes arising under or related to this Section 11. Each Party hereby waives and otherwise surrenders any right or ability, at law, equity, or otherwise, to pursue any such non-billing/non-payment dispute before any appropriate court, any federal or state regulatory agency, or any other governmental body.

1.4 The entirety of Section 12 ("Most Favorable Treatment") of the LWC Agreement is hereby deleted and replaced with the following:

12. [INTENTIONALLY LEFT BLANK]

1.5 The following is added to the end of Section 18.1 of the LWC Agreement

- 18.1 The Effective Date of this Agreement is conditioned upon SAGE, on the last business day before the Effective Date, is already providing basic analog local telephone service to at least a number of Eligible End Users within the Service Areas that is equal to the Monthly Minimum (which Eligible End Users would be transitioned to LWC pursuant to this Agreement). Failure to meet to this condition precedent shall delay the effectiveness of this Agreement in all States and in all Service Areas for a period not to exceed 60 days, and if SAGE cannot meet that condition precedent by the end of the 60th day, then this Agreement shall automatically become null and void without any action by either Party.
- 1.6 Section 18.6 of the LWC Agreement is hereby deleted and replaced with the following:
- 18.6 [INTENTIONALLY LEFT BLANK]
- 1.7 Sections 18.7, 18.7.1, 18.7.2, and 18.7.3 of the LWC Agreement are hereby deleted and replaced with the following:
- 18.7 Section 18.7 (all references to Section 18.7 expressly includes its subsections) applies in accordance with its provisions, notwithstanding any other provision in this Agreement to the contrary.
- 18.7.1 SBC-13STATE shall have the right to terminate this Agreement in any state, in whole or in part, upon written notice to SAGE, in the event that any state government action or any federal action applicable to or within that state (including by a regulatory agency, a court, or a legislature) ("Government Action"), results in SAGE, any other telecommunications carrier, or any other person or entity, being permitted or otherwise allowed to obtain any of the provisions of this Agreement without all of the other provisions of this Agreement as they were agreed to by the Parties, including prices, price structure, and reciprocal compensation.
- 18.7.2 This Agreement shall be null and void, automatically and in its entirety in any state where Section 18.7 (in whole or in part) is held to be illegal, invalid and/or unenforceable, or otherwise not given effect in such state. If Section 18.7 (in whole or in part) is illegal, invalid and/or unenforceable, or otherwise not given effect as a result of federal action, the Agreement shall be null and void, automatically and in its entirety in all states where such federal action applies.
- 18.7.3 Any termination or invalidation of this Agreement under this Section 18.7 shall be effective as of the day before the effective date of such Governmental Action that triggered the invalidation or right to terminate, and SBC-13STATE and SAGE agree to expeditiously adopt and implement a transition plan to avoid or minimize impact on Sage LWC End Users that exist as of the date of termination or invalidation. No new LWC End Users shall be added after the effective date of such Government Action. The Parties agree to negotiate and exercise commercially reasonable efforts to establish a successor agreement during the 180 days following the effective date of such Government Action, as well as work cooperatively to establish an orderly transition of LWC End Users to be completed by the end of such 180-day period. During such 180-day period, the rates contained within the pricing schedule of this Agreement shall continue to apply to any LWCALs which have not been transitioned to other serving arrangements, including without limitation under a successor agreement.
- Without affecting Section 3.3 of this Amendment, nothing in this Amendment affects the continued viability of Section 18.7.4 of the LWC Agreement.
- 1.8 The entirety of the LWC Pricing Schedule of the LWC Agreement is hereby deleted and replaced with the "First Amended LWC Pricing Schedule."

2. Amendment Effective Date

- 2.1 The effective date of this Amendment shall be the first Friday following the day on which the last of the Parties execute this Amendment; provided, however, as to the States of Indiana, Michigan, Texas, and Wisconsin, this Amendment shall be effective in accordance with the interconnection agreement amendment to which this Amendment is attached and filed with the State commission in such State.

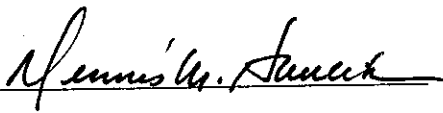
3. Additional Terms and Conditions

- 3.1 This Amendment contains provisions that have been negotiated as part of an entire Amendment and integrated with each other in such a manner that each provision is material to every other provision.
- 3.2 The Parties agree that each and every rate, term and condition of this Amendment is legitimately related to, and conditioned on, and in consideration for, every other rate, term and condition in this Amendment. The Parties agree that they would not have agreed to this Amendment except for the fact that it was entered into on an "all or nothing" basis, and included the totality of rates, terms and conditions listed herein, and that it is an indivisible whole, intended to bind SBC-13STATE and SAGE.
- 3.3 EXCEPT AS MODIFIED HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE LWC AGREEMENT SHALL REMAIN UNCHANGED.
- 3.4 This Amendment is the joint work product of the Parties and has been negotiated by the Parties and shall be fairly interpreted in accordance with its terms and, in the event of any ambiguities, no inferences shall be drawn against either Party.
- 3.5 To the extent there is a conflict or inconsistency between the provisions of this Amendment and the LWC Agreement (including all of its accompanying Appendices, Schedules and Exhibits but ignoring this Amendment), the provisions of this Amendment shall control and apply but only to the extent of such conflict or inconsistency.
- 3.6 The headings of certain sections of this Amendment are for convenience of reference only, and shall in no way define, modify or restrict the meaning or interpretation of the terms or provisions of this Amendment.
- 3.7 Each Person whose signature appears below represents and warrants that he or she has authority to bind the Party on whose behalf he or she has executed this Agreement.
- 3.8 Except as specifically modified by this Agreement with respect to their mutual obligations herein, neither Party relinquishes, and each Party instead fully reserves, any and all legal rights that it had, has and may have to assert any position with respect to any of the matters set forth herein before any state or federal administrative, legislative, judicial or other legal body.
- 3.9 This Amendment may be executed in any number of counterparts, each of which shall be deemed an original; but such counterparts shall together constitute one and the same instrument.

IN WITNESS WHEREOF, this Amendment was executed in duplicate on this 6th day of JAN, ~~2004~~²⁰⁰⁵.

Sage Telecom, Inc. and Sage Telecom of Texas, L.P.

Illinois Bell Telephone Company d/b/a SBC Illinois, Indiana Bell Telephone Company Incorporated d/b/a SBC Indiana, Michigan Bell Telephone Company d/b/a SBC Michigan, The Ohio Bell Telephone Company d/b/a SBC Ohio, and Wisconsin Bell Inc. d/b/a SBC Wisconsin, Nevada Bell Telephone Company d/b/a SBC Nevada, Pacific Bell Telephone Company d/b/a SBC California, Southern New England Telephone Company d/b/a SBC Connecticut, Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas, SBC Kansas, SBC Missouri, SBC Oklahoma and/or SBC Texas by SBC Telecommunications, Inc., its authorized agent

Signature: 

Name: Dennis M. Houlihan

Signature: 

Name: Glen Sirles

Title: Chairman of the Board, President and Chief
Executive Officer

Title: *For/* President – Industry Markets and
Diversified Businesses

Date: 12/30/04

Date: 1-6-2005

FIRST AMENDED LWC PRICING SCHEDULE¹

| | | | | RECURRING RATE – BUSINESS (Business rates are the same for business as residential unless otherwise specified in this column) | | | NONRECURRING RATE FIRST | | NONRECURRING RATE ADDITIONAL | |
|------|-------------------------------------|---------------------------------|--|--|-------------------------------------|--|-------------------------|--|------------------------------|--|
| Line | Product | Potential Discounts/Adjustments | Rate Element | RECURRING RATE- RESIDENTIAL | | | | | | |
| 1 | LWCAL Base Rate ² | A, B, D | thru 12/31/2005 | \$ 25.00 / LWCAL | \$27.00/LWCAL | | | | | |
| 2 | | A, B, D | 01/01/2006 thru 12/31/2006 | \$ 26.00 / LWCAL | \$28.00/LWCAL | | | | | |
| 3 | | A, B, D | 01/01/2007 thru 12/31/2007 | \$ 27.00 / LWCAL | \$29.00/LWCAL | | | | | |
| 4 | | A, B, D | 01/01/2008 thru 06/30/2008 | \$ 28.00 / LWCAL | \$30.00/LWCAL | | | | | |
| 5 | | A,B,D | 7/01/2008 thru 6/30/2011 | \$28.00/LWCAL Subject to Footnote 1 | \$30.00/LWCAL Subject to Footnote 1 | | | | | |
| 6 | LWCAL Base Rate Discount Structure | | | | | | | | | |
| 7 | Discount A ³ | Recurring | Measurement Period Churn | Per PCA | Per PCA | | | | | |
| 8 | Discount B ⁴ | Recurring | Days Sales Outstanding (DSO) 30-days or less | (\$1.00) / LWCAL | (\$1.00)/LWCAL | | | | | |
| 9 | | | | | | | | | | |
| 10 | Adjustment D ⁵ | Recurring and/or Nonrecurring | Measurement Period Local Ratio | | | | | | | |
| 11 | Loop | | | | | | | | | |
| 12 | UNE 2-Wire Analog Loop ⁶ | | | \$ 20.00 | \$ 20.00 | | | | | |
| 13 | | | | | | | | | | |

¹ Beginning on and after July 1, 2008, all prices in this LWC Pricing Schedule and/or under the PCA are subject to being set at a market price determined by **SBC-13STATE** subject to the provisions of Section 12.1 and 18.3_ and/or the Agreement is subject to re-negotiation/termination, all per the PCA provisions.

² OK Line Class Codes for former OK "Local Plus®" offering is not included within the LWCAL Base Rate.

³ Refer to related terms, conditions and pricing in PCA for this rate element, including its calculation and application.

⁴ Refer to related terms, conditions and pricing in PCA for this rate element, including when it applies.

⁵ Refer to related terms, conditions and pricing in PCA for this rate element, including its calculation and application.

⁶ UNE Loop pricing in this LWC Pricing Schedule is intended for reference only. Per the PCA, the Parties' ICA(s) will be amended to reflect this rate.

| Line | Product | Potential Discounts/ Adjustments | Rate Element | RECURRING RATE - Residential | RECURRING RATE - BUSINESS (Business rates are the same for business as residential unless otherwise specified in this column) | NONRECURRING RATE FIRST | NONRECURRING RATE ADDITIONAL |
|---|-------------------------|-------------------------------------|---|--|---|----------------------------|------------------------------------|
| 14 | Usage | | MOU Rate; average is calculated on a per LWCAL basis, and on a per end office, per billing period basis ⁷ | MOU Rate average per LWCAL per end office | MOU Rate average per LWCAL per end office | | |
| 15 | | | 0 - 2600 average MOUs per LWCAL per end office, per billing period | \$ 0.0000 | \$ 0.0000 | | |
| 16 | | | Price for MOUs Over 2600 average MOUs per LWCAL per end office, per billing period ⁸ | \$ 0.0015 | \$ 0.0015 | | |
| RECURRING RATE - BUSINESS (Business rates are the same for business as residential unless otherwise specified in this column) | | | | | | | |
| 17 | | | | | | | |
| 18 | Optional Services | | | | | | |
| 19 | | | Privacy Manager® | \$ 3.50 / LWCAL | \$3.50/LWCAL | | |
| 20 | Directory Assistance | | Directory Assistance (DA) blended Rate for 1) (DA) per call; 2) National DA (NDA) per call; 3) Business Search Category (BCS) per call; 4) Reverse Directory Assistance (RDA) | \$ 0.37 | \$ 0.37 | None | None |
| 21 | | | Directory Assistance Call Completion (DACC) - per call | \$ 0.15 | \$ 0.15 | None | None |
| 22 | | | Directory Assistance Non- Pub Emergency Service | \$ 2.00 | \$ 2.00 | None | None |

⁷ MOUs from both Residential and Business LWCALs are aggregated in making the calculation of average MOUs per LWCAL per end office per billing period, e.g., a single calculation of average MOUs per LWCAL is made, and not separate calculations the distinguish Residential LWCALs and Business LWCALs.

⁸ Application of rate element is effective 01/01/2005.

| 23 | | | Directory Assistance - Branding - Initial/Subsequent Load | None | None | \$ 1,800.00 | None |
|---|--------------------|---------------------------------|--|--|--|-------------------------|------------------------------|
| RECURRING RATE - BUSINESS (Business rates are the same for business as residential unless otherwise specified in this column) | | | | | | | |
| Line | Product | Potential Discounts/Adjustments | Rate Element | RECURRING RATE - Residential | RECURRING RATE - Business | NONRECURRING RATE FIRST | NONRECURRING RATE ADDITIONAL |
| 24 | | | Directory Assistance - Branding Per call | \$ 0.025 | \$ 0.025 | None | None |
| 25 | | | Directory Assistance - Rate Reference Initial Load | None | None | \$ 2,200.00 | None |
| 26 | | | Directory Assistance - Rate Reference Subsequent Load | None | None | \$ 1,000.00 | None |
| 27 | | | | | | | |
| 28 | Directory Listings | | Non-List, Non-Pub, Foreign, enhanced, additional, alternate or other special listing types | 65% of then current retail tariff rate | 65% of then current retail tariff rate | | |
| 29 | Operator Services | | Operated Services - Fully Automated Call Processing (Per completed automated call) | \$ 0.15 | \$ 0.15 | None | None |
| 30 | | | Operator Services - Operator Assisted Call Processing (Per work second) | \$ 0.020 | \$ 0.020 | None | None |
| 31 | | | Operator Services - Branding Initial/Subsequent Load | None | None | \$1,800.00 | None |
| 32 | | | Operator Services - Branding Per call | \$ 0.025 | \$ 0.025 | None | None |
| 33 | | | Operator Services - Rate Reference - Initial Load | None | None | \$2,200.00 | None |

| | | | | | | | |
|----|-----------------------------|-------------------|---|------|------|-------------------|------|
| 34 | | | Operator Services - Rate Reference - Subsequent Load | None | None | \$ 1,000.00 | None |
| 35 | | | | | | | |
| 36 | Service Order Charges | | | | | | |
| 37 | | See Discount C | Electronic Service Order | | | \$ 15.00 / LSR | |
| 38 | | | Semi-manual or Manual Service Order | | | \$ 50.00 / LSR | |

| Line | Product | Potential Discounts/ Adjustments | Rate Element | RECURRING RATE | NONRECURRING RATE FIRST | NONRECURRING RATE ADDITIONAL |
|------|---|----------------------------------|--|--|-------------------------|--|
| 39 | Service Order Charge Discount Structure | | | | | |
| 40 | Discount C ⁹ | Non-Recurring | Electronic "Flow Through" | Electronic Service Order reduced to \$5.00 NRC / LSR | | |
| | | | | | | |
| 41 | Other Charges | | | | | |
| 42 | | | Bill Inquiry/Dispute (Charges sustained) | | | \$25.00 / Incident |
| 43 | | | Paper Bill | | | Applicable Access Tariff Rate per Incident |
| 44 | | | Duplicate Bill | | | Applicable Access Tariff Rate per Incident |
| 45 | | | False Technician Dispatch (CLEC Fault) | | | \$75.00 / Incident |
| 46 | | | Non-EFT payment or credit | | | \$25.00 / Incident |

⁹ Refer to related terms, conditions and pricing in PCA for this rate element, including its calculation and application.